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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,905	11/21/2003	Kweon Son	9988.068.00-US	7370

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EXAMINER	
PERRIN, JOSEPH L	
ART UNIT	PAPER NUMBER
1746	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/18/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/717,905	SON, KWEON	
	Examiner	Art Unit	
	Joseph L. Perrin, Ph.D.	1746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 September 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) *11 and 12* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *20050207*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____. .

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I, claims 1-10, in the reply filed on 19 September 2006 is acknowledged.

2. Claims 11-12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 19 September 2006.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the word "means" is preceded by the word(s) "memory" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Applicant is reminded of proper language for invoking 112, sixth paragraph (MPEP §2181(I)):

> A claim limitation will be interpreted to invoke 35 U.S.C. 112, sixth paragraph, if it meets the following 3-prong analysis:
> (A) the claim limitations must use the phrase "means for " or "step for ";
> (B) the "means for " or "step for " must be modified by functional language; and
> (C) the phrase "means for " or "step for " must not be modified by sufficient structure, material or acts for achieving the specified function.
> With respect to the first prong of this analysis, a claim element that does not include the phrase "means for" or "step for" will not be considered to invoke 35 U.S.C. 112, sixth paragraph. If an applicant wishes to have the claim limitation treated under 35 U.S.C. 112, sixth paragraph, applicant must either: (A) amend the claim to include the phrase "means for" or "step for" in accordance with these guidelines; or (B) show that even though the phrase "means for" or "step for" is not used, the claim limitation is written as a function to be performed and does not recite sufficient structure, material, or acts which would preclude application of 35 U.S.C. 112, sixth paragraph. See Watts v. XL Systems, Inc., 232 F.3d 877, 56 USPQ2d 1836 (Fed. Cir. 2000) (Claim limitations were held not to invoke 35 U.S.C. 112, sixth paragraph, because the absence of the term "means" raised the presumption that the limitations were not in means-plus-function form, nor was the presumption rebutted.); see also Masco Corp. v. United States, 303 F.3d 1316, 1327, 64 USPQ2d 1182, 1189 (Fed. Cir. 2002).

In the instant case, a "memory" is positively recited and the claims are construed as being directed to the positively recited structure. However, clarification and correction are still required.

In addition, claim 1 recites the limitation "the displayed parameters" in the last line. There is insufficient antecedent basis for this limitation in the claim because it is unclear to which displayed parameters applicant is referring (i.e. the customized parameters or the default parameters). As best understood, the claim language refers to the customized parameters since it appears the default parameters have been

cleared and the claims will be examined accordingly. However, clarification and/or correction are still required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,647,231 to PAYNE *et al.* (hereinafter "PAYNE"). Re claims 1-4, PAYNE teaches a washing machine having memory for storing default washing parameters and customizing the washing parameters via input means for selectively performing washing programs (see, for instance, col. 1, lines 44-54, Figure 1 and relative associated text, and col. 9, lines 5-6). Re claims 5-9, the position is taken that the user selection in PAYNE reads on the claimed pressing or actuating a "memory key" since PAYNE clearly discloses a user inputting customized parameters which are stored in memory and such function fully anticipates "pressing" a "memory key" for a "predetermined time" of "less than three seconds".

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over PAYNE in view of U.S. Patent Publication No. 2002/0163440 to TSUI. Recitation of PAYNE is repeated here from above. Although PAYNE clearly discloses inputting by user to customize and store parameters PAYNE does not expressly disclose inputting by pressing for at least three seconds to customize and store parameters. TSUI teaches that it is known to press and hold a controller button in an appliance control system to store desired parameters in a memory (see paragraph [0042]). The position is taken that it would have been within the level and skill of one having ordinary skill in the art at the time the invention was made to provide the inputting means of PAYNE of selecting parameters which are stored to memory with the function of press holding the inputting means to store to memory, as disclosed by TSUI, in order to effectively store

parameters. Moreover, there would be a reasonable expectation of success in programming the controller of PAYNE to require a press hold of the input to perform a storage function.

Further, regarding the press hold time of "greater than three seconds", it is to be expected that a change in range would be an unpatentable modification. Under some circumstances, however, changes such as these may impart pantentability to a process if the particular ranges claimed produce a new and unexpected result which is different in kind and not merely degree from the results of the prior art, such ranges are termed critical ranges and the applicant has the burden of proving such criticality. It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233, 255 (CCPA 1955). See also *In re Waite*, 77 USPQ 586 (CCPA 1948); *In re Scherl*, 70 USPQ 204 (CCPA 1946); *In re Irmscher*, 66 USPQ 314 (CCPA 1945); *In re Norman*, 66 USPQ 308 (CCPA 1945); *In re Swenson*, 56 USPQ 372 (CCPA 1942); *In re Sola*, 25 USPQ 433 (CCPA 1935); *In re Dreyfus*, 24 USPQ 52 (CCPA 1934). The Examiner further notes that the press hold storage function is common knowledge in the controller art and is not in itself considered a point of novelty. An example of such common knowledge in the controller art is the press hold storage function of electronics such as radio input controls.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: U.S. Patent Publication No. 2004/0060123 to LUECKENBACH *et al.*, which discloses a washing machine programmed with customizable default parameters on a display; U.S. Patent Publication No. 2003/0229404 to HOWARD *et al.*, which discloses a washing machine control method using customizable default parameters on a display; U.S. Patent Publication No. 2003/0154560 to BEHRENS *et al.*, which discloses a washing machine programmed with customizable default parameters on a display; U.S. Patent Publication No. 2003/0024057 & U.S. Patent No. 6,671,916 to HERR *et al.*, which discloses a washing machine programmed with customizable default parameters on a display.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Perrin, Ph.D. whose telephone number is (571)272-1305. The examiner can normally be reached on M-F 7:00-4:30, except alternate Fridays.

12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joseph L. Perrin, Ph.D.
Primary Examiner
Art Unit 1746

JLP